IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2126 of 2004 & WP.NOs.10796 & 12796 OF 2004

WRIT APPEAL NO.2126 OF 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/11/2004 in WPMP NO :13713 OF 2004 AND IN WVMP Nos.2795 and 2802 OF 2004 IN W.P.NO.10796 OF 2004 on the file of the High Court.)

Between:

A.P.Travel & Tourism Development Corporation Ltd., Karmika Sangam,

Registration No.B-1562, Tourism House" 3-5-891, Himayathnagar-500 029

Hyderabad, rep by its General Secretary Mr.Narasimha Rao, S/o. Devaiah

R/o.Audiash Mansion, Near Lorry Adda, Ghasmandi, Secunderabad, Hyderabad.

..... APPELLANT

AND

1. A.P. Travel and Tourism Development Corporation Ltd., "Tourism House" 3-5-891, Himayathnagar, Hyderabad -500 029, Rep. by its Executive Director (P&A).
2. The Chairman, A.P. Tourism and Development Corporation Ltd., "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.
3. Joint Manager (Administration), "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.
4. Sri Rosi Reddy, S/o.not known to petitioner, Asst.Manager (Hotels),

A.P.Tourism Development Corporation Ltd., Tirupati Division,

Tirupathi.
5 Sri Harendra, Asst.Manager (Hotels),
A.P.Tourism Development Corporation Ltd., Tirupati Division,

Tirupathi.
6 V.Somasekhara Reddy, Asst.General Manager,
"Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.
7 V.Samba Siva Rao HMV Driver, Retd from APSRTC
Transport Unit, Secunderabad.
8 Sri Satya Ram Prasad, Deputy Manager
A.P.Travel and Tourism Development Corporation Ltd., Nagarjuna

Sagar Unit, Nagarjuna Sagar, Nalgonda District.
9 Subash Chander, Manager (Paryataka Bhavan)
10 Smt.J.Rama, Tourism House " 3-5-891, Himayathnagar, Hyderabad 500 029.

11 Sri K.Venkateswara Rao, Tourism House " 3-5-891, Himayathnagar,

Hyderabad 500 029.
12 Sri A.B.Krishnam Raju, Tourism House " 3-5-891, Himayathnagar,

Hyderabad 500 029.
13 Smt.Satya Prabha Yadav, Tourism House " 3-5-891, Himayathnagar, 500 029.
14 Sri Pavan Kumar, Joint Manager, Tourism House " 3-5-891, Himayathnagar, Hyderabad 500 029.
15 Sri G.S.V.V. Satyanarayana, Dy.Executive Engineer Tourism House " 3-5-891,

Himayathnagar, Hyderabad-500 029.
16 Sri P.Ramesh Babu, Asst. Manager (Pay bills) Tourism House " 3-5-891,

Himayathnagar, Hyderabad- 500 029.
17 Sri R.Ramesh Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
18 Sri T.Arun Kumar, Asst.Manager (Legal) Tourism House " 3-5-891, Himayathnagar,

Hyderabad-500 029.
19 Ms.P.Chaithanya, Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
20 Smt.G.Suryavathi Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
21 Sri A.H.G.Gopala Krishna, Tourism House " 3-5-891, Himayathnagar, Hyderabad-

500 029.
22 Sri S.Joga Rao,Occ: Asst.Engineer, Tourism House " 3-5-891, Himayathnagar, Hyderabad- 500 029.
23 Sri M.Narasimha Rao, Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
24 Smt.G.Yothi, Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.

25 Ms.M.Vijaya Laxmi Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
26 Sri V.Vinod Kumar, Tourism House, “3-5-891, Himayathnagar, Hyderabad

27 The Government of Andhra Pradesh rep. by its Secretary, Tourism Department
A.P.Secretariat, Hyderabad.
28 A.P.Travel & Tourism Development Corporation Ltd. Tourism House, 3-5-891,

Himayathnagar, Hyderabad 500029, rep. by its Managing Director.

(RR 10 to 28 are impleaded as per court order dt.14.7.04 in
WPMP No.14955/04)

… RESPONDENTS

COUNSEL FOR THE APPELLANT: MR.G.VIDYASAGAR

COUNSEL FOR RESPONDENT NOS. 1 TO 3, 27 AND 28 :ADVOCATE GENERAL

COUNSEL FOR RESPONDENT NOS. 4 TO 26 : MR.NUTY RAM MOHAN RAO

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WRIT PETITION: 10796 OF 2004

Between:

A.P.Travel & Tourism Development Corporation Ltd., Karmika Sangam,

Registration No.B-1562, Besides Audaih Memorial School, Near Lorry Adda, old das mandi, Raniganj, Secunderabad rep by its General Secretary Mr.Narasimha Rao, S/o. Devaiah, R/o.Audiash Mansion, Near Lorry Adda, Ghasmandi, Secunderabad, Hyderabad.

..... APPELLANT

AND

1. A.P.Travel and Tourism Development Corporation Ltd., "Tourism House" 3-5-

891, Himayathnagar, Hyderabad -500 029, Rep. by its Executive Director (P&A).

2. The Chairman, A.P.Tourism and Development Corporation Ltd., "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.

3. Joint Manager (Administration), "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.

4. Sri Rosi Reddy, S/o.not known to Petitioner, Asst.Manager (Hotels), A.P.Tourism Development Corporation Ltd., Tirupati Division,

Tirupathi.

5 Sri Harendra, Asst.Manager (Hotels), A.P.Tourism Development Corporation Ltd., Tirupati Division,

Tirupathi.

6 V.Somasekhara Reddy, Asst.General Manager, "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.

7 V.Samba Siva Rao HMV Driver, Retd from APSRTC Transport Unit, Secunderabad.

8 Sri Satya Ram Prasad, Deputy Manager A.P.Travel and Tourism Development Corporation Ltd., Nagarjuna

Sagar Unit, Nagarjuna Sagar, Nalgonda District.

9 Subash Chander, Manager (Paryataka Bhavan)

10 Smt.J.Rama, Tourism House " 3-5-891, Himayathnagar, Hyderabad 500 029.

11 Sri K.Venkateswara Rao, Tourism House " 3-5-891, Himayathnagar,

Hyderabad 500 029.

12 Sri A.B.Krishnam Raju, Tourism House " 3-5-891, Himayathnagar,

Hyderabad 500 029.

13 Smt.Satya Prabha Yadav, Tourism House " 3-5-891, Himayathnagar, 500 029.

14 Sri Pavan Kumar, Joint Manager, Tourism House " 3-5-891, Himayathnagar, Hyderabad 500 029.

15 Sri G.S.V.V. Satyanarayana, Dy.Executive Engineer Tourism House " 3-5-891,

Himayathnagar, Hyderabad-500 029.

16 Sri P.Ramesh Babu, Asst. Manager (Pay bills) Tourism House " 3-5-891,

Himayathnagar, Hyderabad- 500 029.

17 Sri R.Ramesh Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.

18 Sri T.Arun Kumar, Asst.Manager (Legal) Tourism House " 3-5-891, Himayathnagar,

Hyderabad-500 029.

19 Ms.P.Chaithanya, Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.

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24 Smt.G.Jyothi, Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
25 Ms.M.Vijaya Laxmi Tourism House " 3-5-891, Himayathnagar, Hyderabad-500 029.
26 Sri V.Vinod Kumar, Tourism House, "3-5-891, Himayathnagar, Hyderabad

27 The Government of Andhra Pradesh rep. by its Secretary, Tourism Department
A.P.Secretariat, Hyderabad.
28 A.P.Travel & Tourism Development Corporation Ltd. Tourism House, 3-5-891,

Himayathnagar, Hyderabad 500029, rep. by its Managing Director.

(RR 10 to 28 are impleaded as per court order dt.14.7.04 in
WPMP No.14955/04)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of MANDAMUS or any other appropriate writ (i) to declare the appointment made by the Executive Director (P&A) subsequent to 15/06/2004 vide proceedings No.TDC/Admn/C.Aptt/2004 dt. 22/06/2004 as illegal, arbitrary and void (ii) to declare that the third respondent has no power or authority to approve appointments on contract basis made subsequent to 14/06/2004(iii) direct the respondents to terminate services of VRS and retired employees working in the respondent corporation and implement the G.O.Ms.No.515 Finance (FR-1) Department dt. 14/06/2004 and direct the respondent corporation not to make any contract appointments in violation of Articles 14 and 16 of the Constitution of India by engaging retired /voluntary retired employees.

COUNSEL FOR THE WRIT PETITIONER : MR.G.VIDYA SAGAR

COUNSEL FOR RESPONDENT NOS. 1,2,3, 27 AND 28 : ADVOCATE GENERAL

COUNSEL FOR RESPONDENT Nos.4 TO 26 : MR.NUTY RAM MOHAN RAO

WRIT PETITION NO : 12796 of 2004

Between:

Tourism Development Corporation Officers Association Registration No.170/03, 1-2-339/1, Street No.6, Domalguda, Hyderabad rep.by its President Mr.V.V.S.Ganga Raju, S/o Koteswara Rao,

..... PETITIONER

AND

1 A.P.Tourism Development Corporation Ltd. "Tourism House" 3-5-891, Himayathanagar, Hyderabad, rep.by its Managing Director
2 A.P.Tourism Development Corporation Ltd. "Tourism House" 3-5-891, Himayathnagar, Hyderabad, rep.by its Executive Director (P & A)
3 Sri K.Uma Maheshwar Reddy, Joint Manager, Office of the Divisional Manager, A.P.Tourism Development Corporation Ltd, Kurnool
4 Sri M.Shiva S Reddy Company Secretary, A.P.T.D.C. Corporate Office, Hyderabad
5 Sri G.Prasad Reddy, Deputy Manager, APTDC Punnami, Srisailam, Kurnool District
6 Sri A.B.Krishnam Raju (I.D.No.1259) Joint Manager, APTDC, Corporate Office, Himayathnagar, Hyderabad
7 Sri B.Srikanth Barry, (I.D.No.3172) Manager, A.P.Tourism Development Corporation Ltd. Reservation Office, Basheer Bagh, Hyderabad
8 Sri I.K.V.G.Sankaram, Legal Advisor C/o A.P.T.D.C.Ltd. Corporate Office, Himayathnagar, Hyderabad
9 The Government of Andhra Pradesh represented by its Secretary, Department of Tourism, Secretariat, Hyderabad
10 Government of Andhra Pradesh, represented by its Secretary, GAD, Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ (i) declaring that the respondent-Corporation cannot make appointments on contract basis in violation of A.P.T.D.C. Employees Recruitment Regulations, 2001 and (ii) direct the respondents no.1 to cause an enquiry into the affairs of the Corporation with special reference to appointments made after 12-06-2004 on contract basis; (iii) direct respondent No.1 to make promotions to the higher posts strictly in accordance with the APTDC Employees Recruitment Regulations, 2001; (iv) declare that the contract appointments made on and after 14-06-2004 in the respondent-Corporation are illegal and contrary to law; (v) direct the respondent to terminate/ dispense with services of VRS and retired Government / PSU employees working in the respondent Corporation in terms of G.O.Ms No.16 dated 22/3/2001.

Counsel for the Petitioner : MR.G.VIDYASAGAR

Counsel for Respondent Nos.6 & 7: MR.NUTY RAMA MOHANA RAO.

Counsel for Respondent Nos.1 TO 5 AND 9 AND 10: ADVOCATE GENERAL

The Court at the stage of admission, made the following ORDER: (per TMK,J)

The writ appeal has been filed against the order in W.V.M.P.Nos.2795 and 2802 of 2004 in W.P.M.P.No.13713 of 2004 in W.P.No.10796 of 2004 dated 10.11.2004 passed by a learned single Judge of this Court. It is noticed that a connected writ petition being W.P.No.12796 of 2004 is also pending.

At the time of hearing the writ appeal, it is agreed by both the learned counsel that the writ petitions themselves can be disposed of along with the writ appeal since common questions of fact and law are involved in both the writ petitions.

Writ Petition No.10796 of 2004 was filed by the Karmika Sangam of the A.P. Travel and Tourism Development Corporation Limited, to declare the appointments made by the Executive Director (P&A) subsequent to 15.6.2004 vide proceedings No.TDC/Admn/C.Aptt/2004 dated 22.6.2004 as illegal, arbitrary and void; to declare

that the 3rd respondent has no power or authority to approve appointments on contract basis made subsequent to 14.6.2004 and also to direct the respondents to terminate services of retired employees working in the respondent Corporation by implementing G.O.Ms.No.515 Finance (FR-I) Department dated 14.6.2004 and also to direct respondent Corporation not to make any contract appointments in violation of Articles 14 and 16 of the Constitution of India by engaging retired/voluntary retired employees.

Writ Petition No.12796 of 2004 was filed by the Tourism Development Corporation Officers' Association to declare that the respondent-Corporation cannot make appointments on contract basis in violation of A.P.T.D.C. Employees Recruitment Regulations, 2001; to direct respondent No.1 to cause an enquiry into the affairs of the Corporation with special reference to the appointments made after 12.06.2004 on contract basis; to direct respondent No.1 to make promotions to the higher posts strictly in accordance with the A.P.T.D.C. Employees Recruitment Regulations, 2001; to declare that the contract appointments made on and after 14.06.2004 in the respondent-Corporation as illegal and contrary to law and also to direct the respondent to terminate/dispense with the services of retired Government/PSU employees working in the respondent-Corporation in terms of G.O.Ms.No.16 dated 22.3.2001.

Along with writ petition No.10796 of 2004, W.P.M.P.No.13713 of 2004 was filed to direct the respondents to implement G.O.Ms.No.515 Finance (FR-I) Department dated 14.6.2004 by disengaging the retired/voluntarily retired employees pending disposal of the writ petition.

While admitting the said writ petition, an interim order was granted on 30.6.2004 in the said W.P.M.P. by a learned single Judge of this Court directing the respondents not to make any fresh appointments on contract basis. Aggrieved by the same, the respondents in W.P.No.10796 of 2004 have filed W.V.M.P.Nos.2795 and 2802 of 2004 to vacate the said order. The learned single Judge of this Court after hearing both sides and after going into the merits of the case, has chosen to vacate the said interim order on 10.11.2004 and the same is appealed against.

For the sake of convenience, the parties are referred to as they are arrayed in the writ petitions.

The writ petitions have been filed questioning the appointments made on contract basis to various posts in the respondent-Corporation. The grievance of the writ petitioners is that the members of the writ petitioner-associations are working since many years as permanent employees in the respondent-Corporation. But, however, they are not being considered for promotion to the higher posts whereas the unofficial respondents, who have been appointed on contract basis, were promoted to the higher posts ignoring the legitimate claims of the writ petitioner-associations. The unofficial respondents are being appointed on contract basis in higher posts carrying higher pay.

In the counter-affidavit filed by the Joint Manager (Administration), A.P. Tourism Corporation, it is stated that in order to meet the increased activities of the Corporation, it has approached the State Government for increase in the staffing pattern but the same was declined, being a matter of policy. Therefore, it necessitated for the Corporation to engage the services of persons, who are experts in the field of tourism on contract basis so as to promote the tourism industry. Further, it is stated in the counter affidavit that the regular employees are being considered for promotions in all the regular vacancies and that their promotional avenues are not being curtailed by the Corporation. It is also stated that the contract employment is resorted to only in case the regular employees are not fulfilling the requisite qualifications purely on ad hoc basis with no right for regularisation. No sanctioned posts are being filled up by the contract employees to the detriment of the regular employees.

It is contended by the learned counsel for the writ petitioners that before making appointments on contract basis to various posts, no paper notification is being issued, inviting applications from the public who are eligible and qualified to be appointed on contract basis in the respondent-Corporation, which is highly illegal and contrary to the Rules.

On the other hand, the learned Advocate-General appearing on behalf of the respondent-Corporation has argued that the contention of the writ petitioners that no paper notification was issued is not correct. In fact in the year 2001 and also subsequently, notifications were issued calling for applications from the public for making appointments to different posts purely on contract basis.

Having gone through the respective pleadings and the submissions made across

the Bar, it is clear that the respondent-Corporation is resorting to contract appointments only for posts which are essentially required for the development of tourism and where the permanent employees do not fulfill the requisite eligibility criteria. It is also clear from the counter affidavit that those contract appointments are purely on ad hoc basis with no right for regularization and are terminable at any time with prior notice. The counter affidavit further states that the regular posts are being filled up by the permanent employees and that no contract appointments are being made in the regular posts. Therefore, the writ petitioner-associations cannot make out a grievance on the ground that their promotional avenues are being scuttled by filling the posts with contract appointments.

Having regard to the above, we feel it appropriate to dispose of the writ petitions permitting the members of the writ petitioner-associations to apply for higher posts as well whenever a notification is issued, even on contractual basis on the same terms and conditions and the respondent-Corporation is directed to consider their cases, in accordance with the Rules, if they are otherwise eligible. The respondent-Corporation is also directed to publish notification before filling up the vacancies on contract basis, as per the Rules.

Accordingly, the Writ Appeal as well as the Writ Petitions are disposed of. No costs.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

DT: 24.01.2005

bsv/lvl

To

1. The Chairman, A.P.Tourism and Development Corporation Limited,
   "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.

2. The Joint Manager (Administration),
   "Tourism House" 3-5-891, Himayathnagar, Hyderabad-500 029.

3 The Secretary ,Government of Andhra Pradesh, Tourism Department
A.P.Secretariat, Hyderabad.

4 The Managing Director A.P.Travel & Tourism Development Corporation Ltd.

Tourism House, 3-5-891, Himayathnagar, Hyderabad 500029,.

5 The Executive Director (P & A)A.P.Tourism Development Corporation Ltd.
"Tourism House" 3-5-891, Himayathnagar, Hyderabad,

6 Sri K.Uma Maheshwar Reddy, Joint Manager, Office of the Divisional

Manager, A.P.Tourism Development Corporation Ltd, Kurnool.

7 Sri M.Shiva S Reddy, Company Secretary, A.P.T.D.C. Corporate Office, Hyderabad

8 Sri G.Prasad Reddy, Deputy Manager, APTDC Punnami, Srisailam, Kurnool District

9. Sri I.K.V.G.Sankaram, Legal Advisor C/o A.P.T.D.C.Ltd. Corporate Office, Himayathnagar, Hyderabad

10 The Secretary,Government of Andhra Pradesh, GAD,
Secretariat, Hyderabad

11 Two CCs to the Advocate General, High Court of A.P., Hyderabad

12 Two CD copies